

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re: Clearview AI, Inc. Consumer Privacy
Litigation

Civil Action File No.: 1:21-cv-00135

Judge Sharon Johnson Coleman

Magistrate Judge Maria Valdez

**PLAINTIFFS' MOTION TO STRIKE CLEARVIEW DEFENDANTS'
MOTION TO QUASH NONPARTY SUBPOENAS FOR FAILURE
TO COMPLY WITH LOCAL RULE 37.2**

Pursuant to Local Rule 37.2, Plaintiffs, through interim lead class counsel, respectfully move the Court to strike the Clearview Defendants' Motion to Quash Nonparty Subpoenas for Failure to Comply with Local Rule 37.2. In support of this motion, Plaintiffs state as follows:

1. On September 27, 2021, the Clearview Defendants moved pursuant to Federal Rules of Civil Procedure 26(b)(2) and 45(d)(3) to quash certain subpoenas issued to banks. Dkt. 179. Prior to filing the motion, the Clearview Defendants made no effort to meet and confer with Plaintiffs and did not even let Plaintiffs know that they had any objections to the subpoenas. The first notice Plaintiffs received of the objections was the motion to quash itself.

2. Local Rule 37.2 required the Clearview Defendants to make a good faith attempt to resolve the purported dispute before filing a motion. L.R. 37.2. In relevant part, Local Rule 37.2 provides:

To curtail undue delay and expense in the administration of justice, *this court shall hereafter refuse to hear* any and all motions for discovery and production of documents under Rules 26 through 37 of the Federal Rules of Civil Procedure, unless the motion includes a statement (1) that after consultation in person or by telephone and good faith attempts to resolve differences they are unable to reach an accord, or (2) counsel's attempts to engage in such consultation were unsuccessful due to no fault of counsel's.

Id. (emphasis added). Local Rule 37.2 applies to motions to quash subpoenas. *See Bilek v. Nat'l Congress of Employers, Inc.*, No. 18 C 3083, 2020 WL 10963975, at *2 (May 21, 2020) (“a party’s motion to quash a subpoena served by an opposing party in a pending case is the kind of discovery motion that comes within the purview of Local Rule 37.2”); *Pavarti Corp. v. City of Oak Forest*, No. 08 C 702, 2010 WL 4822926, at *1, n.1(N.D. Ill. Nov. 16, 2010) (St. Eve, J.) (discussing applicability of Local Rule 37.2 in the context of a motion to quash a subpoena).

3. The motion to quash does not contain the requisite statement under L.R. 37.2 (*see* Dkt. 179), nor could it, because the Clearview Defendants failed to comply with the Local Rule.

4. To avoid the need for this motion, Plaintiffs made multiple efforts to have the Clearview Defendants withdraw their improperly-filed motion so that the parties could meet and confer as required by Local Rule 37.2. *See* Exhibit 1 (email chain). The Clearview Defendants refused and would only offer to modify the briefing schedule on their motion. *See id.* The Clearview Defendants’ proposed remedy continues to ignore the Local Rule.

5. Because the Clearview Defendants failed to comply with Local Rule 37.2, the Court should refuse to hear the motion and should strike it.

WHEREFORE, Plaintiffs respectfully request that the Court strike the Clearview Defendants’ motion to quash for failure to comply with Local Rule 37.2.

Dated: October 6, 2021

Respectfully submitted,

By: /s/ Scott R. Drury
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CERTIFICATE OF SERVICE

I, Scott R. Drury, an attorney, hereby certify that, on October 6, 2021, I filed the foregoing document using the Court's CM/ECF system, which effected service on all counsel of record.

/s/ Scott R. Drury
Interim Lead Class Counsel for Plaintiffs